



Judiciary II - Criminal Law Committee

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LRB095 19333 RLC 47942 a

1 AMENDMENT TO HOUSE BILL 5469

2 AMENDMENT NO. _____. Amend House Bill 5469 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Illinois Child Online Exploitation Reporting Act.

6 Section 5. Definitions. As used in this Act unless the
7 context otherwise requires:

8 "Electronic communications service" means any service
9 which provides to users thereof the ability to send or receive
10 wire or electronic communications.

11 "Remote computing service" means the provision to the
12 public of computer storage or processing services by means of
13 an electronic communications system.

14 Section 10. Registration. Any entity, while engaged in
15 providing an electronic communication service or a remote

1 computing service to the public, must provide the following
2 information to the Cyber Tip Line at the National Center for
3 Missing and Exploited Children in order to facilitate the
4 required reporting of child pornography crimes, pursuant to 42
5 U.S.C. 13032:

6 (a) the name of the entity;

7 (b) the address of main office (including street number or
8 post office mailbox);

9 (c) the address of any locations in Illinois (including
10 street number or post office mailbox);

11 (d) the name of an agent and contact information (including
12 phone number and e-mail address).

13 Any electronic communication service or remote computing
14 service in existence prior to the date this Act takes effect
15 shall register in accordance with this Section within 60 days
16 of the date this Act takes effect. Any service established on
17 or after the date this Act takes effect must register in
18 accordance with this Section within 60 days after the date of
19 its incorporation or formation under the laws of its state.

20 Section 15. Scope. This Act is applicable to electronic
21 communications services and remote computing services
22 incorporated or organized under the laws of this State or
23 maintaining property or assets in this State.

24 Section 20. Penalties. A provider of electronic

1 communication services or remote computing services who
2 violates this Act by failing to register under Section 10 is
3 subject to a civil penalty in an amount not to exceed \$500 for
4 each day that the violation continues. The Attorney General may
5 bring an action in the name of the People of the State of
6 Illinois to enforce the provisions of this Act.

7 Section 105. The Criminal Code of 1961 is amended by
8 changing Section 11-20.2 as follows:

9 (720 ILCS 5/11-20.2) (from Ch. 38, par. 11-20.2)

10 Sec. 11-20.2. Duty to report child pornography.

11 (a) Any commercial film and photographic print processor or
12 computer technician who has knowledge of or observes, within
13 the scope of his professional capacity or employment, any film,
14 photograph, videotape, negative, ~~or slide,~~ computer hard drive
15 or any other magnetic or optical media which depicts a child
16 whom the processor or computer technician knows or reasonably
17 should know to be under the age of 18 where such child is:

18 (i) actually or by simulation engaged in any act of sexual
19 penetration or sexual conduct ~~intercourse~~ with any person or
20 animal; or

21 (ii) actually or by simulation engaged in any act of sexual
22 penetration or sexual conduct ~~contact~~ involving the sex organs
23 of the child and the mouth, anus, or sex organs of another
24 person or animal; or which involves the mouth, anus or sex

1 organs of the child and the sex organs of another person or
2 animal; or

3 (iii) actually or by simulation engaged in any act of
4 masturbation; or

5 (iv) actually or by simulation portrayed as being the
6 object of, or otherwise engaged in, any act of lewd fondling,
7 touching, or caressing involving another person or animal; or

8 (v) actually or by simulation engaged in any act of
9 excretion or urination within a sexual context; or

10 (vi) actually or by simulation portrayed or depicted as
11 bound, fettered, or subject to sadistic, masochistic, or
12 sadomasochistic abuse in any sexual context; or

13 (vii) depicted or portrayed in any pose, posture or setting
14 involving a lewd exhibition of the unclothed or transparently
15 clothed genitals, pubic area, buttocks, or, if such person is
16 female, a fully or partially developed breast of the child or
17 other person;

18 shall report such instance to a peace officer in the county or
19 municipality in which the film, photograph, videotape,
20 negative, slide, computer hard drive or magnetic or optical
21 media was submitted immediately or as soon as possible. Failure
22 to make such report shall be a business offense with a fine of
23 \$1,000.

24 (b) For the purposes of this Section, a "computer
25 technician" is a person who installs, maintains,
26 troubleshoots, repairs or upgrades computer hardware,

1 software, computer networks, peripheral equipment, electronic
2 mail systems, or provides user assistance for any of the
3 aforementioned tasks.

4 (Source: P.A. 84-1280.)

5 Section 110. The Unified Code of Corrections is amended by
6 changing Section 5-8-1 as follows:

7 (730 ILCS 5/5-8-1) (from Ch. 38, par. 1005-8-1)

8 Sec. 5-8-1. Sentence of Imprisonment for Felony.

9 (a) Except as otherwise provided in the statute defining
10 the offense, a sentence of imprisonment for a felony shall be a
11 determinate sentence set by the court under this Section,
12 according to the following limitations:

13 (1) for first degree murder,

14 (a) a term shall be not less than 20 years and not
15 more than 60 years, or

16 (b) if a trier of fact finds beyond a reasonable
17 doubt that the murder was accompanied by exceptionally
18 brutal or heinous behavior indicative of wanton
19 cruelty or, except as set forth in subsection (a)(1)(c)
20 of this Section, that any of the aggravating factors
21 listed in subsection (b) of Section 9-1 of the Criminal
22 Code of 1961 are present, the court may sentence the
23 defendant to a term of natural life imprisonment, or

24 (c) the court shall sentence the defendant to a

1 term of natural life imprisonment when the death
2 penalty is not imposed if the defendant,

3 (i) has previously been convicted of first
4 degree murder under any state or federal law, or

5 (ii) is a person who, at the time of the
6 commission of the murder, had attained the age of
7 17 or more and is found guilty of murdering an
8 individual under 12 years of age; or, irrespective
9 of the defendant's age at the time of the
10 commission of the offense, is found guilty of
11 murdering more than one victim, or

12 (iii) is found guilty of murdering a peace
13 officer, fireman, or emergency management worker
14 when the peace officer, fireman, or emergency
15 management worker was killed in the course of
16 performing his official duties, or to prevent the
17 peace officer or fireman from performing his
18 official duties, or in retaliation for the peace
19 officer, fireman, or emergency management worker
20 from performing his official duties, and the
21 defendant knew or should have known that the
22 murdered individual was a peace officer, fireman,
23 or emergency management worker, or

24 (iv) is found guilty of murdering an employee
25 of an institution or facility of the Department of
26 Corrections, or any similar local correctional

1 agency, when the employee was killed in the course
2 of performing his official duties, or to prevent
3 the employee from performing his official duties,
4 or in retaliation for the employee performing his
5 official duties, or

6 (v) is found guilty of murdering an emergency
7 medical technician - ambulance, emergency medical
8 technician - intermediate, emergency medical
9 technician - paramedic, ambulance driver or other
10 medical assistance or first aid person while
11 employed by a municipality or other governmental
12 unit when the person was killed in the course of
13 performing official duties or to prevent the
14 person from performing official duties or in
15 retaliation for performing official duties and the
16 defendant knew or should have known that the
17 murdered individual was an emergency medical
18 technician - ambulance, emergency medical
19 technician - intermediate, emergency medical
20 technician - paramedic, ambulance driver, or other
21 medical assistant or first aid personnel, or

22 (vi) is a person who, at the time of the
23 commission of the murder, had not attained the age
24 of 17, and is found guilty of murdering a person
25 under 12 years of age and the murder is committed
26 during the course of aggravated criminal sexual

1 assault, criminal sexual assault, or aggravated
2 kidnaping, or

3 (vii) is found guilty of first degree murder
4 and the murder was committed by reason of any
5 person's activity as a community policing
6 volunteer or to prevent any person from engaging in
7 activity as a community policing volunteer. For
8 the purpose of this Section, "community policing
9 volunteer" has the meaning ascribed to it in
10 Section 2-3.5 of the Criminal Code of 1961.

11 For purposes of clause (v), "emergency medical
12 technician - ambulance", "emergency medical technician
13 - intermediate", "emergency medical technician -
14 paramedic", have the meanings ascribed to them in the
15 Emergency Medical Services (EMS) Systems Act.

16 (d) (i) if the person committed the offense while
17 armed with a firearm, 15 years shall be added to
18 the term of imprisonment imposed by the court;

19 (ii) if, during the commission of the offense,
20 the person personally discharged a firearm, 20
21 years shall be added to the term of imprisonment
22 imposed by the court;

23 (iii) if, during the commission of the
24 offense, the person personally discharged a
25 firearm that proximately caused great bodily harm,
26 permanent disability, permanent disfigurement, or

1 death to another person, 25 years or up to a term
2 of natural life shall be added to the term of
3 imprisonment imposed by the court.

4 (1.5) for second degree murder, a term shall be not
5 less than 4 years and not more than 20 years;

6 (2) for a person adjudged a habitual criminal under
7 Article 33B of the Criminal Code of 1961, as amended, the
8 sentence shall be a term of natural life imprisonment;

9 (2.5) for a person convicted under the circumstances
10 described in paragraph (3) of subsection (b) of Section
11 12-13, paragraph (2) of subsection (d) of Section 12-14,
12 paragraph (1.2) of subsection (b) of Section 12-14.1, or
13 paragraph (2) of subsection (b) of Section 12-14.1 of the
14 Criminal Code of 1961, the sentence shall be a term of
15 natural life imprisonment;

16 (3) except as otherwise provided in the statute
17 defining the offense, for a Class X felony, the sentence
18 shall be not less than 6 years and not more than 30 years;

19 (4) for a Class 1 felony, other than second degree
20 murder, the sentence shall be not less than 4 years and not
21 more than 15 years;

22 (5) for a Class 2 felony, the sentence shall be not
23 less than 3 years and not more than 7 years;

24 (6) for a Class 3 felony, the sentence shall be not
25 less than 2 years and not more than 5 years;

26 (7) for a Class 4 felony, the sentence shall be not

1 less than 1 year and not more than 3 years.

2 (b) The sentencing judge in each felony conviction shall
3 set forth his reasons for imposing the particular sentence he
4 enters in the case, as provided in Section 5-4-1 of this Code.
5 Those reasons may include any mitigating or aggravating factors
6 specified in this Code, or the lack of any such circumstances,
7 as well as any other such factors as the judge shall set forth
8 on the record that are consistent with the purposes and
9 principles of sentencing set out in this Code.

10 (c) A motion to reduce a sentence may be made, or the court
11 may reduce a sentence without motion, within 30 days after the
12 sentence is imposed. A defendant's challenge to the correctness
13 of a sentence or to any aspect of the sentencing hearing shall
14 be made by a written motion filed within 30 days following the
15 imposition of sentence. However, the court may not increase a
16 sentence once it is imposed.

17 If a motion filed pursuant to this subsection is timely
18 filed within 30 days after the sentence is imposed, the
19 proponent of the motion shall exercise due diligence in seeking
20 a determination on the motion and the court shall thereafter
21 decide such motion within a reasonable time.

22 If a motion filed pursuant to this subsection is timely
23 filed within 30 days after the sentence is imposed, then for
24 purposes of perfecting an appeal, a final judgment shall not be
25 considered to have been entered until the motion to reduce a
26 sentence has been decided by order entered by the trial court.

1 A motion filed pursuant to this subsection shall not be
2 considered to have been timely filed unless it is filed with
3 the circuit court clerk within 30 days after the sentence is
4 imposed together with a notice of motion, which notice of
5 motion shall set the motion on the court's calendar on a date
6 certain within a reasonable time after the date of filing.

7 (d) Except where a term of natural life is imposed, every
8 sentence shall include as though written therein a term in
9 addition to the term of imprisonment. For those sentenced under
10 the law in effect prior to February 1, 1978, such term shall be
11 identified as a parole term. For those sentenced on or after
12 February 1, 1978, such term shall be identified as a mandatory
13 supervised release term. Subject to earlier termination under
14 Section 3-3-8, the parole or mandatory supervised release term
15 shall be as follows:

16 (1) for first degree murder or a Class X felony except
17 for the offenses of predatory criminal sexual assault of a
18 child, aggravated criminal sexual assault, and criminal
19 sexual assault if committed on or after the effective date
20 of this amendatory Act of the 94th General Assembly and
21 except for the offense of aggravated child pornography
22 under Section 11-20.3 of the Criminal Code of 1961, if
23 committed on or after January 1, 2009, 3 years;

24 (2) for a Class 1 felony or a Class 2 felony except for
25 the offense of criminal sexual assault if committed on or
26 after the effective date of this amendatory Act of the 94th

1 General Assembly and except for the offenses of manufacture
2 and dissemination of child pornography under clauses
3 (a) (1) and (a) (2) of Section 11-20.1 of the Criminal Code
4 of 1961, if committed on or after January 1, 2009, 2 years;

5 (3) for a Class 3 felony or a Class 4 felony, 1 year;

6 (4) for defendants who commit the offense of predatory
7 criminal sexual assault of a child, aggravated criminal
8 sexual assault, or criminal sexual assault, on or after the
9 effective date of this amendatory Act of the 94th General
10 Assembly, or who commit the offense of aggravated child
11 pornography, manufacture of child pornography, or
12 dissemination of child pornography after January 1, 2009,

13 the term of mandatory supervised release shall range from a
14 minimum of 3 years to a maximum of the natural life of the
15 defendant;

16 (5) if the victim is under 18 years of age, for a
17 second or subsequent offense of aggravated criminal sexual
18 abuse or felony criminal sexual abuse, 4 years, at least
19 the first 2 years of which the defendant shall serve in an
20 electronic home detention program under Article 8A of
21 Chapter V of this Code.

22 (e) A defendant who has a previous and unexpired sentence
23 of imprisonment imposed by another state or by any district
24 court of the United States and who, after sentence for a crime
25 in Illinois, must return to serve the unexpired prior sentence
26 may have his sentence by the Illinois court ordered to be

1 concurrent with the prior sentence in the other state. The
2 court may order that any time served on the unexpired portion
3 of the sentence in the other state, prior to his return to
4 Illinois, shall be credited on his Illinois sentence. The other
5 state shall be furnished with a copy of the order imposing
6 sentence which shall provide that, when the offender is
7 released from confinement of the other state, whether by parole
8 or by termination of sentence, the offender shall be
9 transferred by the Sheriff of the committing county to the
10 Illinois Department of Corrections. The court shall cause the
11 Department of Corrections to be notified of such sentence at
12 the time of commitment and to be provided with copies of all
13 records regarding the sentence.

14 (f) A defendant who has a previous and unexpired sentence
15 of imprisonment imposed by an Illinois circuit court for a
16 crime in this State and who is subsequently sentenced to a term
17 of imprisonment by another state or by any district court of
18 the United States and who has served a term of imprisonment
19 imposed by the other state or district court of the United
20 States, and must return to serve the unexpired prior sentence
21 imposed by the Illinois Circuit Court may apply to the court
22 which imposed sentence to have his sentence reduced.

23 The circuit court may order that any time served on the
24 sentence imposed by the other state or district court of the
25 United States be credited on his Illinois sentence. Such
26 application for reduction of a sentence under this subsection

1 (f) shall be made within 30 days after the defendant has
2 completed the sentence imposed by the other state or district
3 court of the United States.

4 (Source: P.A. 94-165, eff. 7-11-05; 94-243, eff. 1-1-06;
5 94-715, eff. 12-13-05.)".